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Reasonable Fol bill needed

By Paul A. Miltich

President Ford is hoping that when Congress returns to Capitol Hill after the election, the lawmakers will produce Freedom of Information Act legislation he can sign.

The existing Freedom of Information Act went on the books in 1966. It gives the public greater access to government documents. It empowers the Federal courts to review agency decisions to withhold information and places on the government the burden of providing that the withholding was proper.

The President recently vetoed a bill aimed at strengthening the 1966 Freedom of Information Act by providing for more prompt, efficient and complete disclosure of information. The President favored the legislation in principle, but he found certain provisions in the bill unreasonable.

In vetoing the bill, the President urged Congress to modify it along lines he was recommending and then return it to him for his signature.

The President wants stronger Freedom of Information legislation—but he wants legislation which is workable.

Critics of the President's veto have taken the attitude that rejection of the congressionally-passed freedom of information bill is unthinkable. Well, it's true that "freedom of information" is a catch phrase. Who in a democracy is opposed to freedom of information? Better you should be against motherhood.

Let's take a good look at the President's reasons for vetoing the freedom of information bill sent him by the Congress. He took the action reluctantly.

The President found three provisions of the bill objectionable.

One would authorize any Federal judge to examine agency records privately to determine whether those records can be properly withheld under the Freedom of Information Act. This provision would reverse a 1973 Supreme Court ruling which held that judicial review of classified documents should be limited to determining whether the document was, in fact, classified—and precluded private review by the judge focused on the reasonableness of the classification. Under the new provision, the judge could overturn the agency's classification simply because he found the plaintiff's position just as reasonable.

The President felt that this provision endangered our diplomatic relations and our military and intelligence secrets.

He said he could accept court review of classification except that "the courts should not be forced to make what amounts to the initial classification decision in sensitive and complex areas

Mr. Miltich, who is special assistant to President Ford for public affairs, prepared this statement because he felt that the President's reasons for vetoing the Freedom of Information bill "receive far too little attention."

FEEDBACK

by Vic Cantone



CLOAK AND DOLLAR

where they have no particular expertise."

As the provision now reads, the President said, agency decisions dealing with classification of documents would be given less weight in the courts than agency determinations involving routine regulatory matters.

The President therefore proposes that courts be given review authority over classification of documents but that they be required to uphold the agency classification "if there is a reasonable basis to support it."

Mr. Ford's second objection to the vetoed bill was that it would permit access to additional law enforcement investigatory files.

The President objected to an invasion of the confidentiality of FBI files. He also noted that our already overburdened law enforcement agencies do not have the numbers of personnel that would be needed to make a line-by-line examination of each individual public request for such information.

The President proposed that more flexible criteria govern such information requests, so that responding to the requests would not be so heavy a burden.

Finally, the President objected that the vetoed bill set unreasonable time limits for agencies to respond to requests for documents—10 days to decide whether to furnish the document, and 20 days for determinations on appeal.

The time provision, Mr. Ford asserted, should provide more latitude.

The President concluded that the bill as sent to him by the Congress was uncon-

stitutional and unworkable. But he endorsed its main objectives.

Fully cognizant of the people's right to know, the President stated in his veto message: "I sincerely hope that this legislation, which has come so far toward realizing its laudable goals, will be reenacted with the changes I propose and returned to me for signature during this session of Congress."

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